

# STATE OF ALASKA

## DEPT. OF ENVIRONMENTAL CONSERVATION DIVISION OF SPILL PREVENTION AND RESPONSE INDUSTRY PREPAREDNESS PROGRAM

**SEAN PARNELL, GOVERNOR**

555 Cordova Street

Anchorage, AK 99501

PHONE: (907) 269-3094

FAX: (907) 269-7687

<http://www.dec.state.ak.us/>

January 5, 2012

File No: 302.40 (VM)

### **OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN AMENDMENT**

Mark Smith, CEO  
Vitus Marine, LLC  
113 Northern Lights Blvd.  
Anchorage, AK 99503

Subject: **Vitus Marine, LLC Oil Discharge Prevention and Contingency  
Plan, Plan Number 11-CP-5188 M/V *Renda* Amendment Approval**

Dear Mr. Smith:

In accordance with 18 AAC 75.415, Vitus Marine, LLC (Vitus Marine) has applied for an amendment to the below referenced oil discharge prevention and contingency plan (plan). The Alaska Department of Environmental Conservation (department) has completed the review of the amendment application received on December 27, 2011, in accordance with 18 AAC 75.455 and 18 AAC 75.457, requesting the addition of T/V *Renda* to the plan for one voyage into Nome, Alaska for a winter fuel delivery.

Plan: **Vitus Marine, LLC Alaska Chartered Tanker  
Operations Oil Discharge Prevention and  
Contingency Plan, approved October 14, 2011**

Plan Number: **11-CP-5188**

Supporting  
Documents: **Alaska Chadux Corporation Technical  
Manual (2008)  
Application packet received December 27,  
2011  
Cover Letter  
VML Nome Winter Fuel Delivery Scenario  
Arctic Tactics  
Vitus Marine, LLC Oil Transfer Procedures**

**Voyage Routing Diagram  
T/V Renda Prior Operations Letter  
Class Information for the T/V Renda  
Vessel Diagrams**

Covered Vessel: **T/V Renda (IMO 8129618)**

Region of Operation: **Northwest Arctic**

Valid Operation Period: **January 5, 2012 – January 31, 2012**

**AMENDMENT APPROVAL:** Based on our review of the application, the department has determined that this amendment, as represented by Vitus Marine satisfies minimum planning standards and other requirements established under applicable statutes and regulations. The department grants approval to amend the plan to add the *Renda* for one voyage, effective January 5, 2012.

The department does not warrant to the applicant, the plan holder, or any other person or entity: (1) the accuracy or validity of the information or assurances relied upon; (2) that the plan is or will be implemented; or (3) that even full compliance with and implementation of with the plan will result in complete containment, control or clean up of any given oil spill. Vitus Marine is encouraged to take any additional precautions and obtain any additional response capabilities it deems appropriate to further guard against the risk of oil spills and to enhance its ability to comply with its duty under AS 46.04.020(a) to immediately control, contain and clean up an oil discharge.

This approval is subject to the following terms and conditions:

**CONDITIONS OF ORIGINAL PLAN APPROVAL:**

- 1) While in state waters, a copy of the Certificate of Approval and the plan, as defined in 18 AAC 75.425, must be on board all covered vessels at all times.
- 2) Vitus Marine must submit to the department updated versions of the approved plan, including all revisions instituted during the recent plan review within 30 days of this letter. **You must send two complete plan copies to the department's Anchorage office and one complete copy to the Valdez office. In addition, you must send either a complete updated version of the plan or a copy of the plan edits and revisions to each holder of a controlled copy of the plan.**

- 3) All amendments and renewals must be submitted in a "red line" format that clearly identifies the proposed changes. This includes all changes, regardless of their significance. "Red line" format means that each and every change, addition or deletion must be clearly identified within the text of the plan.
- 4) Vitus Marine relies on the use of response contractor(s) for its plan implementation. Vitus Marine must immediately notify the department, in writing, of: (1) any change in the contractual relationship with the Alaska Chadux Corporation; (2) any breach by either party to the response contract that may excuse the Alaska Chadux Corporation from performing; (3) any indication the Alaska Chadux Corporation may fail or refuse to perform; or (4) any event that may otherwise affect the response, prevention or preparedness capabilities described in the approved plan.
- 5) The operation of tank ships transporting more than 45,000 barrels of petroleum product and less than 200,000 barrels of petroleum products are restricted to operations at Port Clarence in the Northwest Arctic Region only.

**CONDITIONS FOR THIS AMENDMENT TO ADD THE RENDA TO THE PLAN:**

- 1) Vitus Marine will meet all terms and conditions of the approved Vitus Marine, LLC Alaska Chartered Tanker Operations Oil Discharge Prevention and Contingency Plan referenced above.
- 2) 18 AAC 75.440 requires that, for any noncrude tank vessel, the plan holder shall maintain or have under contract sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel and other resources to contain and control a spill within 48 hours and clean up within the shortest possible time. Vitus Marine stated in its amendment application that Vitus Marine "has arranged the use of the resources [necessary to carry out 18 AAC 75.440] through a Statement of Contractual Terms with Bonanza Fuels and [Bonanza's] participation in the Nome [Memorandum of Understanding (MOU)]." The following is stated on page 3 under the heading "Miscellaneous" of the Nome MOU:

Third Parties. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or corporation other than the parties hereto, any rights or remedies under or by reason of this MOU.

Vitus Marine is not a signatory to the Nome MOU. Vitus Marine would be considered a third party under its provisions, thereby precluding

access to any resources identified in the amendment application as being available as a result of this MOU.

Vitus Marine will provide to the department, prior to the *Renda* entering state waters, documentation demonstrating that Vitus Marine has contractual access to all resources identified in the amendment application as necessary to carry out the provisions of 18 AAC 75.440.

- 3) 18 AAC 75.027(a) states: “. . . a laden tank vessel must carry or have ready access to sufficient oil transfer equipment to facilitate lightering to and from other vessels. The oil transfer equipment must be sufficient to lighter the volume of the largest cargo tank within 24 hours.”

As per Vitus Marine's contract with the Alaska Chadux Corporation, Vitus Marine has access to sufficient oil transfer equipment to facilitate lightering the volume of the largest cargo tank, 6764 barrels, within 24 hours. In order to ensure that the 24 time requirement is met, Vitus Marine will provide Chadux, and copy the department with the specific pumping and storage equipment they would request if lightering was necessary. Chadux must be provided this information prior to the *Renda* entering state waters.

- 4) Vitus Marine will provide the department, prior to the *Renda* entering state waters, the Statement of Contractual Terms between the Alaska Chadux Corporation and Vitus Marine for this voyage.
- 5) Vitus Marine will provide a qualified/trained person to serve as the Person-In-Charge for shore-side transfer operations. This condition is necessary because the City of Nome Personnel monitoring the shoreside transfers are not Persons-In-Charge (PICs) as stated in the plan.
- 6) Per the application provided by Vitus Marine, the *Renda* is limited to carry 36,163 barrels of product while in state waters. All cargo quantities will be calculated in gross barrels.
- 7) The USCG Cutter *Healy* will be available to provide assistance, where her draft allows, for the *Renda* during the inbound and outbound voyages through state waters.
- 8) Vitus Marine will, prior to the *Renda* entering state waters, verify that all response resources, equipment and personnel identified in the amendment application are available and response ready.
- 9) Vitus Marine will make available to the department upon request, verification that all response personnel are aware of and trained on all

aspects of an oil spill response in predicted local conditions for this voyage.

- 10) Vitus Marine will add to the inventory of pre-staged equipment, a minimum of 200 feet of additional sorbent boom over the amount stated in the amendment application. This is reasonable and necessary as a potential lack of snow may preclude the construction of containment berms as identified in the Arctic Ice Tactics.
- 11) The *Renda* will be operated in a manner that does not exceed the capabilities of the vessel as specified by the Russian Ice Classification System.
- 12) The *Renda* will only conduct fuel transfers over shorefast ice or while moored at the dock.
- 13) The initial start of transfer will be limited to daylight hours.
- 14) Vitus Marine will comply with all USCG edits to the Oil Transfer Procedures for Nome Winter Operations.
- 15) Vitus Marine will ensure that personnel are stationed at all hose connections at the initial start of the transfer. Vitus Marine will have sufficient personnel deployed to monitor the entire length of the transfer hose every 30 minutes regardless of hose length.
- 16) Vitus Marine will make available upon request, all calculations, data, and comparisons used to demonstrate that Vitus Marine has evaluated local ice conditions prior to the *Renda*'s arrival at Nome to ensure that ice strength is sufficient to safely support all equipment, personnel and resources necessary to conduct both the transfer and any potential discharge response.
- 17) Vitus Marine will provide the department, within 15 days of transfer, a confirmation of the cargo volumes to ensure compliance with condition of approval #6, above.
- 18) Vitus Marine will provide the Alaska Chadux Corporation with the following information prior to the *Renda* entering state waters:
  - a. Vessel call sign.
  - b. Name of the master of the vessel, if fluent in English, or identify a person fluent in English and the master's language who will be

immediately available to the bridge when the vessel is laden and underway in state waters.

- c. Details on the vessel's emergency towing package and other factors needed should an emergency tow become necessary.
- d. Properties of the cargo that might impact containment or recovery of spilled cargo.

**EXPIRATION:** The Certificate of Approval for the plan expires on October 13, 2016. Following expiration, Alaska law prohibits operation of the vessel(s) until an approved plan is once again in effect.

**RENEWAL:** Vitus Marine must submit a completed renewal application and plan to the department no later than 180 days prior to the expiration of the original plan approval. This is to ensure the submitted plan is approved before the current approved plan expires (18 AAC 75.420).

**REVOCATION, SUSPENSION OR MODIFICATION:** This approval is effective only while Vitus Marine is in compliance with the plan and with all of the terms and conditions described above. The department may, after notice and opportunity for a hearing, revoke, suspend or require modification of the approved plan if Vitus Marine is not in compliance with the plan or for any other reason stated in AS 46.04.030(f). In addition, Alaska law provides that a vessel or facility that is not in compliance with a plan may not operate in state waters (AS 46.04.030). The department may terminate approval prior to the expiration date if deficiencies are identified that would adversely affect spill prevention, response or preparedness capabilities.

**DUTY TO RESPOND:** Notwithstanding any other provisions or requirements of this plan, a person causing or permitting the discharge of oil is required by law to immediately control, contain and cleanup the discharge regardless of the adequacy or inadequacy of the plan (AS 46.04.020).

**NOTIFICATION OF NON-READINESS:** Vitus Marine must notify the department, in writing, within 24 hours after any significant response equipment, as specified in the plan, is removed from its designated storage location or becomes non-operational. This notification must provide a schedule for equipment substitution, repair or return to service as described in 18 AAC 75.475(b). This notification does not in itself waive any provision of this plan approval. If the department accepts the Vitus Marine schedule for equipment substitution, repair or return to service, it will provide an approval in writing.

**CIVIL AND CRIMINAL SANCTIONS:** Failure to comply with the plan may subject Vitus Marine to civil liability for damages and to civil and criminal penalties. Civil and criminal sanctions may also be imposed for any violation of AS 46.04, any regulation issued there under or any violation of a lawful order of the department.

**INSPECTIONS, DRILLS, RIGHTS TO ACCESS, VERIFICATION OF EQUIPMENT, SUPPLIES AND PERSONNEL:** The department has the right to verify the ability of Vitus Marine to carry out the provisions of this plan and to access inventories of equipment, supplies and personnel. Verification may be through means such as inspections and discharge exercises. Verification may be with or without prior notice to Vitus Marine. The department has the right to enter and inspect the covered vessel(s) in a safe manner at any reasonable time for these purposes and to otherwise ensure compliance with plan terms and conditions (AS 46.04.030(e); AS 46.04.060; 18 AAC 75.480 and 485).

**COMPLIANCE WITH APPLICABLE LAWS:** If amendments to the approved plan are necessary to meet the requirements of any new laws or regulations, Vitus Marine must submit an application for amendment to the department at the above address. Vitus Marine must adhere to all current applicable state statutes and regulations. This approval does not relieve Vitus Marine of the responsibility to secure other federal, state or local approvals or permits or to comply with all other applicable laws.

**VOLUNTARY INCIDENT REPORTING:** In the interests of early identification and reduction of spill risks in Alaska waters, the department requests that it be notified if the vessel(s) covered by this plan, in transit to or from Alaska waters, is involved in: (1) a reportable incident as defined by United States Coast Guard (USCG) regulation or (2) is not in compliance with the vessel's USCG Certificate of Inspection. The department requests a report as soon as possible after addressing resultant safety concerns either via telephone at (907) 269-8487 or by facsimile to (907) 269-8403. The initial report of the incident should contain the date, time, location, weather conditions, vessel operations underway, identity of any facilities and other vessels involved and a brief analysis of any known cause(s). The department requests that Vitus Marine submit a copy of the final USCG report within thirty days of the incident.

**INFORMAL REVIEWS AND ADJUDICATORY HEARINGS:** Any person who disagrees with this plan approval may request an adjudicatory hearing in accordance with 18 AAC 15.195 - 18 AAC 15.340 or an informal review by the Division Director in accordance with 18 AAC 15.185. **Informal review requests** must be delivered to the Division Director, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801, within 15 days of the plan approval. **Adjudicatory hearing requests** must be delivered to the department

Commissioner, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801, within 30 days of the plan approval. If a hearing is not requested within 30 days, the right to appeal is waived. Please send a copy of an informal review or hearing request to the undersigned.

Vitus Marine will assume responsibility under applicable Alaska statutes and regulations for any oil discharge from the *Renda* while operating in Alaska waters. This responsibility includes containment and cleanup of any oil spilled from the *Renda*.

It is the duty of the contingency plan holder to ensure that financial responsibility, required by AS 46.04.040, is met for the period that the *Renda* is in Alaska waters.

Please be advised that the approval of this amendment does not relieve Vitus Marine of the obligation for securing other State, federal or local approvals for permits and compliance with all other applicable laws.

Thank you for coordinating this review with the department. If you have any questions regarding this approval, please contact John Kotula at (907) 835-4698 or [John.Kotula@alaska.gov](mailto:John.Kotula@alaska.gov).

Sincerely,



Betty Schorr  
Program Manager

Electronic cc:

John Kotula, ADEC  
Captain Jason Fosdick, USCG  
Phil Baumgartner, Vitus Marine  
Michail Shestakov, Vitus Marine  
Denise Michels, Mayor, City of Nome  
David G. Hoffman, Sitnasuak Native Corp.  
John LeClaire, ACC  
Gary Folley, ADEC  
Martin Farris, ADEC  
Samantha Smith, ADEC  
Leah Durocher, ADEC  
Brad Dunker, ADF&G  
Samantha Carroll, ADNR



Public Commenters:

Bruce Kittess

Martina Leedy

Loretta Bullard, Kawarak, Inc.

Denise Barengo, Nome Eskimo Community

Charlotte Kost, CPC

Gill Leathley, Novagold Resources

Robert Baumgartner, Bristol Alliance Fuels, LLC

Jason Evans, Alaska Media, LLC and Financial Alaska

Josephine Bahnke, Nome City Manager

Gail R. Schubert, Bering Straits Native Corp.

Isaak Hurst, Esq., Wells Fargo Insurance Services USA, Inc.

Steve Percy, AIC

Joy Baker, Narbormaster/ Port of Nome

John K. Handeland, Nome Joint Utility System

cc:

Project File